

ORIGINAL

MEMORANDUM  
RECEIVED



0000105395

66ET

TO: Docket Control Center

2009 NOV 27 A 8:35

FROM: Steven M. Olea  
Director  
Utilities Division

AZ CORP COMMISSION  
DOCKET CONTROL

Arizona Corporation Commission  
DOCKETED

NOV 27 2009

DATE: November 27, 2009

DOCKETED BY	ME
-------------	----

RE: ARIZONA WATER COMPANY - REQUEST FOR EXTENSION OF COMPLIANCE  
DEADLINE (DOCKET NO. W-01445A-05-0469)

In Decision No. 68607, dated March 23, 2006, the Arizona Corporation Commission ("Commission") approved the application of Arizona Water Company ("Arizona Water" or "Company") for extension of its Certificate of Convenience and Necessity ("CC&N") to provide water service to portions of Pinal County, Arizona. This Decision approved an extension area which was divided into a number of parcels, referred to as Parcels 1, 3, 4, 5, 6, 7 and 8.

Decision No. 68607 ordered Arizona Water to file the following compliance filings:

"... a copy of the fully executed main extension agreements for water facilities for each parcel within the extension area, except for Parcel 1, within two years of this Decision."

"... a copy of the Arizona Department of Environmental Quality ("ADEQ") Approval to Construct for the facilities needed to serve each of the Parcels within the requested areas, except for Parcel 1, within two years of this Decision."

"... a copy of one developer's Certificates of Assured Water Supply for each of the Parcels within the requested areas, except for Parcel 1, stating that there is adequate water supply, where applicable or when required by statute, within two years of this Decision."

Based on the Commission-ordered two year timeframe, the original due date for compliance with these requirements was on or about March 23, 2008.

Decision No. 68607 did not require compliance for Parcel 1 as the CC&N was granted initially without further requirement. As for Parcel 8, a franchise was required via an order preliminary but the Company did not meet the one year deadline and the Order Preliminary for Parcel 8 became null and void. On February 12, 2007, the Company filed all of the required compliance items relating to Parcel 6. Therefore, the remaining compliance requirements pertain to Parcels 3, 4, 5 and 7.

On January 28, 2008, Arizona Water docketed a "request for additional time for compliance filing" seeking an extension of time until March 23, 2010 for the provision of the main extension agreement ("MXA"), the Approval to Construct ("ATC") and the Certificate of Assured Water Supply ("CAWS") filings for the remaining parcels. Staff filed its response on February 19, 2008 recommending approval of the Company's requested extension of time. In a Procedural Order dated

March 11, 2008, the Commission approved the Company's request for an extension of time until March 23, 2010 for the filing of the MXA, ATC and CAWS.

On October 2, 2009, Arizona Water docketed a subsequent "request for additional time for compliance filing" seeking a further extension of time until March 23, 2012, for the provision of the MXA, ATC and the CAWS requirements. In explaining the reason for the extension, the application presents the case of a development project characterized by a declining market in 2006 and the beginning of a "deep recession" in December 2007, which brought development to "a near halt" – a scenario which the Company notes did not exist at the time of the issuance of Decision No. 68607.

The Company quantifies the effect of this recession by quoting that housing permits issued in Pinal County decreased from 11,371 in 2005 to 3,104 in 2008. Arizona Water further quotes that only 1,507 housing permits were issued through the eight months ending August 2009, although it admits that permits picked up slightly in the few months thereafter. The Company is currently providing water service to 93 customers in the approved extension area and has provided letters from owners of Parcels 3, 4, 5 and 7 reiterating their request for service and their intent to develop within the approximate timeframe of the requested Company extension.

#### Staff Recommendation

Staff remains concerned about both the number and relative lengths of Utility Company extension requests. Staff is aware of the difficulty in the housing market and the slowdown in development and is still concerned with CC&Ns that are being held by firms with projects where development has been placed on hold or which could potentially never occur.

However, the Commission recently conducted an in depth discussion of the inherent issues behind the relative length of extension requests. Included in this general discussion was the condition of the housing market and recession, the general requirements of the various state agencies in such matters, the need for long-term planning in significant development projects and the overall complexity of all these issues. Fundamental to this Commission discussion was the question of the appropriate length of time to allow for these elements which cause or drive the extension requests on such projects. The Commission seemed to entertain the logic that significantly longer extension timeframes may be appropriate in certain circumstances.

In this case, the Company application documents the multi-parcel nature of this CC&N extension and the significant reduction in housing permits in Pinal County. It further discusses that to plat any subdivision within an Active Management Area, the Company must have an approved CAWS, which cannot be granted without proof of one hundred year water supply. Arizona Water further outlined the Company's efforts to have a hydrologic engineering firm prepare a regional groundwater model to demonstrate ground water supplies. Based on those findings, the engineering firm filed a Physical Availability Demonstration ("PAD") which is required by ADWR for approval of the CAWS. Updated submittals have been provided to ADWR but the process for the PAD and the subsequent CAWS remains ongoing.

Docket Control Center

November 27, 2009

Page 3

Based on all of the above, Staff recommends approval of Arizona Water's request for further extension of time until March 23, 2012 relating to the provision of the required MXA, ATC and CAWS for parcels 3, 4, 5 and 7 of the extension area. Staff recommends that no further time extensions be granted.

EGJ:BKB:lhnm

Originator: Brian K. Bozzo

SERVICE LIST FOR: ARIZONA WATER COMPANY  
DOCKET NO. W-01445A-05-0469

Mr. Robert W. Geake  
Vice President and General Counsel  
Arizona Water Company  
Post Office Box 29006  
Phoenix, Arizona 85038-9006

Mr. Thomas H. Campbell  
Mr. Michael T. Hallam  
Lewis & Roca  
40 North Central Avenue  
Phoenix, Arizona 85004

Mr. Garye L. Vasquez  
Cooper, Vasquez & Rueter, LLP  
Post Office Box 15005  
Casa Grande, Arizona 85230-5005

Mr. Steven M. Olea  
Director, Utilities Division  
Arizona Corporation Commission  
1200 West Washington Street  
Phoenix, Arizona 85007

Ms. Janice Alward  
Chief Counsel, Legal Division  
Arizona Corporation Commission  
1200 West Washington Street  
Phoenix, Arizona 85007

Ms. Lyn Farmer  
Chief Administrative Law Judge  
Hearing Division  
Arizona Corporation Commission  
1200 West Washington Street  
Phoenix, Arizona 85007